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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re MARIA P. et al., a Person
Coming Under the Juvenile
Court Law.

B291710

(Los Angeles County
Super. Ct. No.
18CCJP01269A-C)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

WENDY P.,

Defendant and Appellant

APPEAL from an order of the Superior Court of
Los Angeles County, Martha Matthews, Judge. Dismissed.

Cristina Gabrielidis, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Veronica Randazzo, Deputy County Counsel, for Plaintiff and Respondent.

Maria P., Amanda P. and Stephanie P. were declared dependent children of the juvenile court pursuant to Welfare and Institutions Code section 300, subdivisions (b), (d) and (j),¹ based on the sexual abuse of Maria by Victor P., Amanda's and Stephanie's father, and the failure of Wendy P., the mother of all three girls, to protect Maria from Victor's sexual abuse. The juvenile court also found that Victor had physically abused Maria and that Wendy failed to protect her from that abuse within the meaning of section 300, subdivisions (a) and (b). Maria was removed from Wendy's custody and ordered suitably placed under the supervision of the Los Angeles County Department of Children and Family Services (Department); Amanda and Stephanie were removed from Victor's custody and released to Wendy.

Although conceding that dependency jurisdiction is proper as to all three children because Victor has not appealed from the juvenile court's jurisdiction findings or disposition orders, Wendy appeals the court's finding that her failure to protect Maria created a risk of serious physical harm and sexual abuse to Amanda and Stephanie. We dismiss Wendy's appeal because she has failed to raise a justiciable controversy.

¹ Statutory references are to this code unless otherwise stated.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The Petition*

Following a discussion in one of her high school classes about sexual harassment, Maria, then 17 years old, reported to the teacher that Victor had sexually abused her when she was 10 years old and that Wendy had threatened to send her back to Guatemala, where she had been born, if she reported the abuse.² The matter was immediately reported to the Department's hotline, and an investigation was undertaken by law enforcement personnel and a Department emergency response social worker.

On February 26, 2018 the Department filed a section 300 petition alleging that Victor had physically abused Maria by striking her with an extension cord and belt and by hitting her in the face with his hand and that Wendy knew or reasonably should have known of the physical abuse and failed to protect Maria (§ 300, subds. (a) & (b)). The petition further alleged that Victor had sexually abused Maria since she was 10 years old by fondling her breasts and buttocks, attempting to remove her underwear and placing his face on her vagina and that Wendy knew of the sexual abuse and failed to protect Maria (§ 300, subds. (b) & (d)). It was also alleged that Wendy had emotionally abused Maria by allowing Victor to reside in the home knowing of the sexual abuse (§ 300, subd. (c)). The Department alleged Maria's siblings, Amanda, then 14 years old, and Stephanie, then 10 years old, were at risk of serious physical and emotional harm

² Wendy gave birth to Maria in Guatemala. Wendy immigrated to the United States when Maria was two, leaving Maria with her maternal grandparents. Wendy met Victor in the United States and started her new family. Wendy and Victor brought Maria to the United States when she was nine years old.

and sexual abuse as a result of Victor's actions and Wendy's failure to protect Maria from him (§ 300, subds. (a), (b), (d) & (j)).

The juvenile court initially detained all three children, but several weeks later released Amanda and Stephanie to Wendy on condition that Victor not reside in the home.

2. The Department's Interviews

In interviews with the Department's social workers Maria reported that the incident involving Victor's attempt to remove her underwear had taken place when she was 10 years old and that she had repeatedly said "no" while it was occurring. Although Victor did not again engage in similar behavior, during the next two years Victor often asked for hugs and, while hugging her, would lift up her shirt, touch her stomach and grab her buttocks. The last incident of touching had occurred when she was 12 years old.

According to Maria, when she was 14 years old, she told Wendy that Victor had touched her buttocks and had tried to pull her underwear down. Wendy did not believe Maria. When Wendy asked Victor about Maria's claims, he said it was a misunderstanding and denied he had inappropriately touched Maria.

Maria also stated that Victor physically disciplined her by using a belt and extension cord and on one occasion had slapped her face with his hand, leaving a red mark. Once she was 12 years old, Maria no longer let Victor hit her.

Both Victor and Wendy denied Maria's charges of sexual and physical abuse, and Wendy said Maria had never told her about the alleged sexual abuse. Wendy described Maria as rebellious and defiant and explained she had threatened to send

her back to Guatemala if she continued to be uninterested in school and skip classes.

Both Amanda and Stephanie told the social worker they felt safe at home, were not physically disciplined by their father, had never been inappropriately touched by him and did not believe he had sexually abused Maria.

3. The Jurisdiction and Disposition Hearings

Maria testified in chambers at the jurisdiction hearing. The court found her testimony credible and noted the consistency among the various interviews she had given and her testimony at the hearing. The court sustained the sexual abuse allegations, including the allegation that Wendy had failed to protect Maria from Victor's sexual abuse and that Victor's and Wendy's actions placed Amanda and Stephanie at risk of serious physical harm and sexual abuse. The court also sustained the allegations of Victor's physical abuse of Maria and Wendy's failure to protect Maria from that physical abuse, but struck the allegations that the physical abuse and Wendy's failure to protect Maria created a risk of harm to Amanda and Stephanie. The court also struck the allegations of emotional abuse by Wendy.

At the disposition hearing the court declared Maria, Amanda and Stephanie dependents of the juvenile court, removed Maria from Wendy's custody and ordered her suitably placed under the supervision of the Department. The court ordered Amanda and Stephanie removed from Victor's custody and released to Wendy. At the six-month review hearing (§ 364) in February 2019, the court modified the home-of-mother orders

and released Amanda and Stephanie to both parents with family maintenance services.³

DISCUSSION

Wendy's Challenge to Several of the Juvenile Court's Jurisdiction Findings Is Not Justiciable

The juvenile court's findings that Victor's sexual abuse of Maria created a risk of physical harm and sexual abuse to Amanda and Stephanie, neither appealed by Victor nor directly challenged by Wendy, provide a sufficient and independent basis for affirming dependency jurisdiction over Amanda and Stephanie regardless of any alleged error by the court in sustaining the Department's allegations against Wendy. (See *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [jurisdiction finding involving one parent is good against both; ""the minor is a dependent if the actions of either parent bring [him or her] within one of the statutory definitions of a dependent""]; see also *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452; *In re Briana V.* (2015) 236 Cal.App.4th 297, 310-311.) Thus, as Wendy concedes, even if we struck the jurisdiction findings regarding the risk of harm to Amanda and Stephanie created by Wendy's failure to protect Maria, the juvenile court's declarations of dependency and disposition orders for those two children would not be affected, particularly since Amanda and Stephanie had been released to Wendy prior to the jurisdiction hearing. (See *In re Briana V.*, at p. 311 ["The problem that the juvenile court seeks to address need not be described in the sustained section 300 petition.

³ We take judicial notice of the juvenile court's February 1, 2019 minute orders pursuant to Evidence Code sections 452, subdivision (c), and 459, subdivision (a).

[Citation.] In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order”]; *In re I.A.*, at p. 1492 “[a] jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established”]; see generally § 362, subd. (a) [the juvenile court “may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child”].)

As Wendy argues, however, in limited circumstances reviewing courts have exercised their discretion to consider a dependency appeal challenging a jurisdiction finding despite the existence of an independent and unchallenged ground for jurisdiction when the jurisdiction findings “could be prejudicial to the appellant or could impact the current or any future dependency proceedings” or “the finding could have consequences for the appellant beyond jurisdiction.” (*In re J.C.* (2014) 233 Cal.App.4th 1, 4; accord, *In re M.W.*, *supra*, 238 Cal.App.4th at p. 1452; see *In re D.P.* (2015) 237 Cal.App.4th 911, 917; *In re Drake M.* (2012) 211 Cal.App.4th 754, 763.) Relying on this authority, Wendy urges us to consider her challenge to the findings that she exposed Amanda and Stephanie to a substantial risk of physical and sexual abuse because of the stigma those findings carry and their potential to negatively influence future juvenile court or family law proceedings.

Wendy has failed to identify any specific prejudice or adverse consequence that could possibly flow from the jurisdiction findings she challenges in this case. She does not seek to overturn any of the court’s disposition orders based on purported errors in the juvenile court’s findings. Nor does she

contend, because she cannot, that reversal of the findings from which she appeals would convert her status from offending to nonoffending parent. (Cf. *In re Drake M.*, *supra*, 211 Cal.App.4th at p. 763 [difference between father being an offending parent and a nonoffending parent “may have far-reaching implications with respect to future dependency proceedings in this case and father’s parental rights”].) To the contrary, the juvenile court found Wendy failed to protect Maria not only from Victor’s sexual abuse, the basis for its section 300, subdivision (d), finding as to both Victor and Wendy, but also from his physical abuse, the basis for its section 300, subdivision (a), findings. In light of those two unchallenged findings regarding Wendy’s failure to protect her oldest daughter from Victor’s ongoing abuse, the additional findings regarding the impact of Wendy’s shortcomings as a parent on Amanda and Stephanie are not particularly stigmatizing or inflammatory.

Moreover, any future dependency proceeding or custody/visitation order in a hypothetical family law proceeding would have to be based on conditions existing at that time. A past jurisdiction finding regarding the consequences for Amanda and Stephanie of Wendy’s failure to protect Maria would have limited, if any, relevance and does not create a high risk of prejudice. (See *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1495.) Because Wendy has not established any actual or threatened prejudice from these jurisdiction findings as to her, we dismiss the appeal on the ground there is no justiciable controversy for which we can grant any effective relief. (*In re Briana V.*, *supra*, 236 Cal.App.4th at pp. 309-310; *In re J.C.*, *supra*, 233 Cal.App.4th at p. 4; *In re I.A.*, at p. 1492.)

DISPOSITION

The appeal is dismissed.

PERLUSS, P. J.

We concur:

ZELON, J.

FEUER, J.